

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Mail Processing Network
Rationalization Service Changes, 2012

Docket No. N2012-1

PRESIDING OFFICER'S RULING
CONCERNING SCHEDULING OF
REBUTTAL WITNESSES FOR HEARING

(Issued June 1, 2012)

The hearing to enter testimony in rebuttal to the Postal Service direct case into the record is scheduled for June 13-15, 2012.¹ The Postal Service indicates that it intends to orally cross-examine all rebuttal witnesses.² Witnesses are scheduled to appear to enter testimony, written-cross examination, and oral cross-examination on the days, and in the order, indicated below.³ The intent is to continue the hearing each day as long as necessary to complete that day's witness list.

¹ The hearing originally scheduled for June 12-15, 2012 is being reduced by one day, and will begin on Wednesday, June 13, 2012. See P.O. Ruling N2012-1/5, Presiding Officer's Ruling Establishing Procedural Schedule, January 12, 2012.

² United States Postal Service Notice of Intent to Conduct Oral Cross-Examination of Intervenor and Postal Regulatory Commission Rebuttal Witnesses, May 29, 2012.

³ Participants have indicated their preferences concerning witness availability. See American Postal Workers Union, AFL-CIO, Notice of Witness Availability, May 29, 2012; Notice of Witness Availability of Intervenor National Association of Letter Carriers, AFL-CIO, May 25, 2012; [National Newspaper Association] Notice of Witness Availability, May 30, 2012; National Postal Mail Handlers Union Notice of Witness Availability, May 30, 2012 (NPMHU Notice); Commission Consultants['] Notice of Witness Availability, May 30, 2012; Public Representative Notice of Witness Availability, May 29, 2012.

Wednesday, June 13, 2012 (designations due June 8, 2012)

- Max Heath (NNA-T-1)
- David Bordewyk (NNA-T-2)
- Kevin Neels (PR-T-1)
- Subramanian Raghavan (PR-T-2)

Thursday, June 14, 2012 (designations due June 11, 2012)

- Michael A. Crew (NALC-T-1)
- Michael Hora (NPMHU-T-1)
- Robert J. Broxton, Sr. (NPMHU-T-7)
- Kathryn L. Kobe (APWU-RT-1)
- Marc Schiller (APWU-RT-2)
- Pierre Kacha (APWU-RT-3)

Friday, June 15, 2012 (designations due June 12, 2012)

- Paul Hogrogian (NPMHU-T-2)
- Christopher Bentley (NPMHU-T-3)
- James Haggarty (NPMHU-T-4)
- David Wilkin (NPMHU-T-5)
- Kenny Hayes (NPMHU-T-6)
- Harold J. Matz (PRCWIT-T-2)
- William Weed (PRCWIT-T-1)

NPMHU states that six of its seven witnesses neither work nor reside in the Washington, D.C. area, and would have to travel significant distances in order to testify. NPMHU Notice at 1. NPMHU asks the Postal Service to contact NPMHU counsel to explore alternatives that would obviate the need for oral cross-examination.

The bar appearing before the Commission have always acted in a collegial manner, with many examples of counsel taking steps to accommodate the requests of other counsel. This includes avoiding the needless appearance of witnesses when it would not further the development of the record. The Postal Service has indicated that it might modify the list of witnesses it intends to cross-examine. NPMHU counsel is encouraged to contact Postal Service counsel immediately to explore whether any accommodations can be made concerning the Postal Service's need to conduct oral cross-examination of its witnesses.

NPMHU further requests that if oral cross-examination is sought by the Postal Service, or the Commission wishes to question witnesses, that witnesses be permitted to testify via teleconference. *Id.* at 2. Conducting a public hearing via teleconference is an extraordinary request. If NPMHU had concerns about witness availability, it should have explored alternatives to testifying in person at a much earlier date.

Some material has been filed under seal in this proceeding. To the maximum extent feasible, hearings will be open to the public. Counsel should attempt to formulate oral cross-examination questions such that the hearing may remain open to the public. If this is not possible, a closed session will be convened at the end of each hearing day after all witnesses for that day have appeared.

Parties shall file designations of written cross-examination at least three working days prior to the appearance of each witness. See 39 CFR 3001.30(e)(2). When a party designates written cross-examination, a designation package shall simultaneously be submitted to the Commission's dockets section containing two hard copies of each designated document (single-sided, unstapled and not hole-punched), separated by witness (or institutional).

A slightly different procedure shall be followed for designation of material under seal. A separate notice of designation shall be prepared for each witness that clearly indicates the intent to designate material under seal. Copies of material under seal shall not be filed or included with the designation packet submitted to the Commission. Two copies of this material shall be sealed in an envelope clearly marked as material under seal with the contents identified by interrogatory number(s) or other appropriate designation and the responding witness's name (or institutional). This material shall be hand carried to the hearing room for entry into the record.

RULING

1. The schedule for the appearance of rebuttal witnesses is set forth in the body of this Ruling.
2. Procedures for the designation of written cross-examination are set forth in the body of this Ruling.

Ruth Y. Goldway
Presiding Officer